

UNITED STATES DISTRICT COURT

for the
District of Arizona

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Two Samsung Phones in custody of HSI,
3010 N 2nd Street, Suite 201, Phoenix,
AZ, 85012, as described in Attachment A

Case No. 19-264 MB

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, incorporated by reference.

located in the _____ District of _____ Arizona, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
8USC 1324

Offense Description
Bringing in and Harboring Certain Aliens

The application is based on these facts:
See attached Affidavit, incorporated by reference.

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Reviewed by Brett A. Day, AUSA

BD

Rochelle Brown

Applicant's signature

Rochelle R. Brown, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

6/7/19

Michelle H. Burns

Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns, United States Magistrate Judge

Printed name and title

ATTACHMENT A

DESCRIPTION OF PROPERTY, PERSONS, OR PREMISES TO BE SEARCHED

A-1: A cellular phone (hereinafter referred to as "**Target Phone 1**") seized on May 30, 2019 pursuant to a search incident to arrest at 6002 W Claremont Street, Glendale, Arizona. **Target Phone 1** is a black Samsung cellular telephone, IMEI unknown, associated to cellular call number unknown. **Target Phone 1** is currently in the custody of Homeland Security Investigations.

A-2: A cellular phone (hereinafter referred to as "**Target Phone 2**") seized on May 30, 2019 pursuant to a search incident to arrest at 6002 W Claremont Street, Glendale, Arizona. **Target Phone 2** is a black Samsung cellular telephone, IMEI unknown, associated to cellular call number unknown. **Target Phone 2** is currently in the custody of Homeland Security Investigations.

ATTACHMENT B
DESCRIPTION OF ITEMS TO BE SEIZED

The items to be seized are all records, in the form of electronic data that constitute evidence of the commission of a criminal offense, and electronic data which is and has been used as the means for committing a criminal offense, contained in the **Target Phones** described in **Attachment A**, which relate to alien smuggling, harboring of aliens, and/or conspiracies to commit these offenses, including:

1. The cellular telephone numbers and/or direct connect and/or names and identities assigned to the cellular telephones;
2. The data regarding outgoing telephone calls, incoming calls, and/or missed calls available in the stored memory of the telephones;
3. Call details including call history, duration of calls, text messages and text message history;
4. Names and telephone numbers saved as contacts or in the telephones' address book;
5. Saved user names and passwords, documents, browsing history and records of other internet activity;
6. All digital images, as well as listening to, noting and recording any messages or recordings left on any telephone answering device or recording relating to alien smuggling, harboring of aliens, and/or conspiracies to commit these offenses;
7. Any captured digital photograph evidence that may be stored in the listed telephones or on the media storage devices (memory cards) that may be associated with the planning or in furtherance of the listed violations;

8. Any Short Message Service messages (SMS), Instant Messages (IM), Multimedia Message Service messages or similar text messages;
9. Any identifying information (including names, phone numbers, addresses, photographs and any other information) relating to the location of other "drop houses" or identities of other alien smugglers;
10. Any geolocation data, coordinates, global position system data, or other electronic information detailing locations involved with the listed parties and violations;
11. Any documents, notes, ledgers, lists, etc. of names, locations, prices or other information related to alien smuggling or money laundering;
12. Any evidence of banking activity to include account numbers, passwords, money transfers, and bank communications;
13. Any additional applications from which communication can be made through messages, and phone calls;
14. Phone settings information, including the phone number of the **Target Telephones**.

AFFIDAVIT IN SUPPORT OF APPLICATIONS FOR SEARCH WARRANTS

I, Special Agent Rochelle Brown, being duly sworn, hereby depose and state as follows:

I. INTRODUCTION

1. I make this Affidavit in support of applications for search warrants under Rule 41 of the Federal Rules of Criminal Procedure for warrants authorizing a search of cellular phones (hereinafter referred to as collectively as "**Target Phones**," or individually as "**Target Phone 1**, **Target Phone 2**." The **Target Phones** were recovered and seized on May 30, 2019, pursuant to a consensual encounter by United States Border Patrol and Glendale Police Department. The **Target Phones** are currently in the custody of Homeland Security Investigations at 3010 N 2nd Street, Suite 201, Phoenix, AZ. 85012. The **Target Phones** to be searched are more fully described below and in Attachment A.

2. Located within the **Target Phones**, I seek to seize evidence, fruits, and instrumentalities of the foregoing criminal violations, as further described in Attachment B hereto and incorporated herein by reference.

3. As set forth in detail below, the investigation into the **Target Phones** indicates there is probable cause to believe that the **Target Phones** are associated with criminal violations of 8 U.S.C. § 1324(a)(1)(A) (bringing in, transporting, and harboring of illegal aliens), 8 U.S.C. § 1324(a)(v)(I) (conspiracy to commit bringing in, transporting, and harboring of illegal aliens). Accordingly, I believe there is probable cause to conclude that evidence of, and fruits and instrumentalities of, these violations are inside the **Target Phones**. From past experience of investigating Alien Smuggling Organizations, facilitators commonly keep telephone numbers, contact names, electronic mail (e-mail) addresses, appointment dates, messages, pictures and other digital information, stored in the memory of cellular telephones which identify other persons involved in human smuggling activities.

II. AGENT BACKGROUND

4. Your Affiant is a Special Agent with the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), currently assigned to the Office of the Special Agent in Charge, Anti-Smuggling Task Force (ASTF) in Phoenix, Arizona. I am an investigator or law enforcement officer of the United States within the meaning of Title 18, United States Code, 2510(7), who is empowered to conduct investigations of, and to make arrests for, offences enumerated in Title 8, Title 18, Title 21, and Title 31, United States Code. Furthermore, as a Special Agent, I am responsible for conducting criminal investigations regarding violations of immigration law committed against the United States, including, but not limited to, violations of Title 8 United States Code, Section 1324, *et seq.*

5. The facts contained in this Affidavit are based upon my personal observations, consultation with other agents from HSI, and the United States Border Patrol (USBP); surveillance conducted by law enforcement officers from USBP, HSI, as well as state and local police; traffic stops; and a review of the records obtained during this investigation.

6. Your Affiant also relies on his experience, training, and background as a Special Agent with HSI in evaluating this information. The facts in the affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

III. REQUESTED SEARCH WARRANT

A-1 A cellular phone (hereinafter referred to as "**Target Phone 1**") seized on May 30, 2019, pursuant to a search incident to arrest by United States Border Patrol and Glendale Police Department. **Target Phone 1** is a black Samsung

cellular telephone, IMEI (Unknown). **Target Phone 1** is currently in the custody of Homeland Security Investigations;

A-2 A cellular phone (hereinafter referred to as "**Target Phone 2**") seized on May 30, 2019, pursuant to a search incident to arrest by United States Border Patrol and Glendale Police Department. **Target Phone 2** is a black Samsung cellular telephone, IMEI (Unknown). **Target Phone 2** is currently in the custody of Homeland Security Investigations;

IV. PROBABLE CAUSE STATEMENT

A. Introduction

7. Your Affiant is currently investigating an alien-smuggling organization operating in the Phoenix, Arizona metropolitan area. Based on the investigation, your Affiant believes that probable cause exists to show that individuals identified as Victor Ochoa-Macias and Xiomara Eulalia Ordonez are facilitators for the alien smuggling organization in Phoenix, Arizona. Based on training experience, your Affiant knows that alien-smuggling facilitators are responsible for coordinating the movement and the transportation of smuggled aliens from the Phoenix, Arizona metropolitan area to their destination within the interior United States. Additionally, a facilitator may engage in harboring smuggled aliens, feeding or providing food to smuggled aliens, collecting smuggling fees from the smuggled alien's sponsors, and providing transportation to the smuggled alien's final destination within the interior United States.

8. Your Affiant believes Victor Ochoa-Macias and Xiomara Eulalia Ordonez are facilitators for the alien smuggling organization operating in Phoenix, Arizona, and based on training and experience your Affiant knows that facilitators, drivers, smugglers, and coordinators routinely communicate via SMS/text message prior to, immediately after entering

the United States, and continuously until final payments are made to transport illegal aliens to their intended destinations.

9. Furthermore, your Affiant believes ^{CS}probably cause exists to believe that a search of the **Target Phones** will lead to further evidence of offenses involving the bringing in, transporting and harboring of illegal aliens and conspiracy to bring in, transport and harbor illegal aliens in violation to Title 8 U.S.C. § 1324(a) et seq., as well as the identification of individuals who are engaged in the commission of these offenses. From past experience of investigating Alien Smuggling Organizations, facilitators commonly keep telephone numbers, contact names, electronic mail (e-mail) addresses, appointment dates, messages, pictures and other digital information, stored in the memory of cellular telephones which identify other persons involved in human smuggling activities.

B. Case Background

10. On May 29, 2019, Special Agents with Homeland Security Investigations (HSI), currently assigned to the Office of the Special Agent in Charge, Anti-Smuggling Task Force (ASTF) in Phoenix, Arizona, received information from the United States Border Patrol regarding a possible alien stash house located at 6002 W Claremont Street, Glendale, Arizona, 85301. The information received stated an undocumented alien was being held at the residence with sixty (60) people. The information received further stated the smugglers were not letting people leave and they are demanding more money.

11. On May 30, 2019, HSI agents and officers of Glendale Police Department conducted a consensual encounter at 6002 W Claremont Street, Glendale, Arizona. Agents announced their presence and a male identified as Victor Ochoa-Macias (hereinafter "MACIAS") answered the door. Agents attempted a rouse and explained that there was a report of a missing child. Agents asked who lived at the residence and if they could come in and take a look around at which point MACIAS stated he lived there with his family and that there was not a missing child in the residence. MACIAS stated that the only people inside

were his wife and child as well as a lot of his family members. Agents again asked if they could enter the residence to confirm this, and MACIAS stated the agents could not enter without a warrant. Agents asked MACIAS for identification and he produced an Illinois Identification Card in the name of Victor Ochoa Macias, date of birth December 23, 1986. An Agent recognized MACIAS as an undocumented alien from a previous investigation, and as having been removed from the United States by the United States Border Patrol. The agent asked MACIAS to step outside. MACIAS stepped outside of the residence and was placed under arrest for illegally being in the United States without being admitted or paroled by an Immigration Officer.

12. Upon agents placing MACIAS under arrest several suspected undocumented aliens began walking out of the residence. A female identified as Xiomara Eulalia Ordonez exited the residence and explained she lived at the residence with her husband, MACIAS, and that she has a child asleep inside the residence.

13. Agents initially entered the residence to conduct a protective sweep to locate a child inside the residence. Following the recovery of the child and reuniting the child with his mother, agents continued the protective sweep based on the initial information that people were possibly being held inside the residence against their will.

14. Twelve (12) additional suspected undocumented aliens were hiding within bedrooms and closets of the residence and were questioned by agents. A total of twenty-five (25) undocumented aliens located at the residence, were confirmed to be undocumented aliens.

15. Agents asked Xiomara Eulalia Ordonez again if she lived at the residence and she stated she did. Agents gained written consent to search the residence. During the consent search, agents located a firearm, currency, a lease agreement for 6002 W Claremont Street, Glendale, Arizona, and what appeared to be possible ledgers documenting alien smuggling activities. The lease agreement for the residence listed the lessees as MACIAS and Xiomara Eulalia Ordonez.

16. Twenty-five (25) undocumented aliens were subsequently transported to the Casa Grande Border Patrol Station for processing.

17. At approximately 1:30 pm agents read MACIAS his rights pursuant to Miranda, in the Spanish language, and he signed a written waiver, agreeing to speak with agents. Agents initially questioned MACIAS regarding his biographic information. MACIAS stated that he has been residing in Phoenix for the past two years; noting that he has been residing at the Target Residence for less than a year. MACIAS indicated that, prior to moving to Arizona, he resided in Chicago for a period of time. Agents inquired who resides at the Target Residence, and MACIAS replied that he resides at the residence along with his wife and son, noting that he and his wife are both signers on the lease for the Target Residence. MACIAS stated that he sleeps in the master bedroom of the home, along with his wife and child.

18. Agents questioned MACIAS regarding his role in smuggling illegal aliens, and he stated that he is not a big player. MACIAS initially stated that his friend had asked him to house illegal aliens on his behalf as a "favor," noting that MACIAS was not sure whether he was going to be paid for doing so. MACIAS initially stated that the illegal aliens started showing up at his residence a couple days prior, after being dropped off by the rear gate of the residence by an individual unknown to him. Agents inquired about the large quantity of bulk food located at the residence, and who had purchased it. MACIAS indicated that the illegal aliens cooked and fed themselves, and some other unknown individuals brought food and water to the house. MACIAS admitted that he was aware that all of the individuals located within his house on this date were illegal aliens (with the exception of his son). MACIAS later stated that he believed payment for housing the illegal aliens would be discussed with his friend at a later date.

19. Agents asked MACIAS about his wife's involvement in alien smuggling activities, and he stated that she was not involved at all.

20. MACIAS was then further questioned regarding the illegal aliens recovered from his residence on this date. He initially maintained that the illegal aliens all arrived at the residence within the past two or three days ago; noting that three or four illegal aliens had been picked up from the residence in the same time frame. Agents confronted him regarding this version of events not making sense based on prior experience with alien smuggling investigations; and MACIAS subsequently changed his story, stating that the illegal aliens began showing up at his residence this past Saturday or Sunday, and that three or four people had left since that time. MACIAS again highlighted that he thought he was doing a "favor" for a friend and originally thought that he would only be housing one or two illegal aliens.

21. Upon the arrest of MACIAS, he was found to have two (2) black Samsung cellular telephones in his possession which were subsequently seized by HSI.

V. COMMON PRACTICES OF INDIVIDUALS INVOLVED IN ALIEN SMUGGLING

22. Based upon my experience and training, consultation with other law enforcement officers experienced in human smuggling, and all the facts and opinions set forth in this affidavit, I know the following:

a) Members of human smuggling organizations communicate via cellular telephones in order to direct and monitor the transportation of illegal aliens north into the United States.

b) Telephone numbers, contact names, electronic mail (e-mail) addresses, appointment dates, messages, pictures and other digital information are stored in the memory of cellular telephones which identify other persons involved in human smuggling activities.

c) Alien smugglers use cellular telephones to contact family members of smuggled aliens to arrange for payment of smuggling fees and given that the smuggled aliens are unwilling to divulge family members names and telephone numbers, it is surmised that alien smugglers are obtaining the SIM cards from the smuggled aliens' cellular telephones when they arrive at the drop house and utilize the SIM card adapters and SD cards to gain

contact information to call the contacts listed in the cards in order to extort money from said contacts for the release of the smuggled aliens.

d) It is equally true that alien smugglers use multiple subscriber accounts i.e. telephone numbers to elude detection by law enforcement. A single subscriber account can have one or multiple telephone numbers assigned to it. The SIM or SD card holds the account information which activates the cellular telephone once it is inserted. Therefore, it is not necessary to have multiple telephones for multiple telephone numbers, only the SIM or SD cards which has the subscriber account information assigned to it. The SIM or SD card can be removed from one cellular telephone, replaced with another SIM or SD card and then that cellular telephone will then be utilizing that account and telephone number.

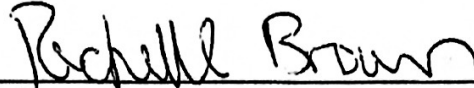
e) Telephone numbers, contact names, electronic mail (email) addresses, appointment dates, messages, pictures and other digital information are stored in the memory of cellular telephones which identify other persons involved in smuggling related activities.

In my training and experience with HSI, I know that the SIM cards, micro SD cards, and cellular telephones have been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the items first came into the possession of HSI.

VI. CONCLUSION

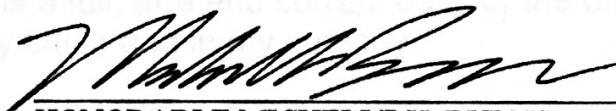
23. Based upon above-mentioned information and my experience and training, I believe that there is probable cause to find that the contents of the instruments listed in Attachment A contain electronic information that will substantiate the criminal violations of 8 U.S.C. § 1324(a)(1)(A) (bringing in, transporting, and harboring of illegal aliens), 8 U.S.C. § 1324(a)(v)(I) (conspiracy to commit bringing in, transporting, and harboring of illegal aliens),

18 U.S.C. § 1956(a)(1) (money laundering), and 18 U.S.C. § 1956(h) (conspiracy to commit money laundering), and that evidence and information listed in Attachment B will be found.



ROCHELLE R BROWN
Special Agent
Homeland Security Investigations

Subscribed and sworn to before me on the 7 day of June, 2019.



HONORABLE MICHELLE H. BURNS
United States Magistrate Judge